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REMARKS

Claims 20-85 are pending in the present application. Reconsideration is respectfully requested for the following reasons.

In the Office Action, the Examiner has indicated that claims 21, 22, 30, 41, 42, 49-53, 61, 62 and 69-73 have been allowed and that claims 27, 29, 32, 33, 38, 39, 47, 58, 59, 67, 78 and 79 define patentable subject matter. Applicant would like to thank the Examiner for that indication.

Claim 25 has been objected to and the Examiner has suggested deleting the phrase "comprises an engagement cam which." This phrase has been deleted from claim 25 and Applicant submits that the objection to the claim is now obviated.

Claim 31 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. According to the Office Action, the phrase "similar to" renders the claim indefinite. Applicant has changed the phrase "similar to" to "of" and now submits that claim 31 is definite and in condition for allowance.

Claims 28, 48 and 68 have been rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1, 8, 21 and 28 of U.S. Patent No. 7,228,817. The present application has been assigned to Big Dutchman International GmbH as recorded at Reel 018543, Frame 0620. Furthermore, U.S. Patent No. 7,228,817 has been assigned to Big Dutchman International GmbH as recorded by Reel 0188843, Frame 0252. Accordingly, Applicant submits that the assignee of the present application has established its ownership interest and that the terminal disclaimer filed on January 16, 2007, should be accepted.

Claims 20, 23-26, 34, 35, 40, 43-46, 54, 55, 60, 63-66, 74 and 75 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,476,811 to Swartzendruber in view of U.S. Patent No. 5,101,766 to Runion. As further discussed below, Applicants respectfully submit that a *prima facie* case of obviousness has not been established. The test for obviousness has recently been addressed by the U.S. Supreme Court in *KSR Int'l. Co. v. Teleflex, Inc.*, 82 U.S.P.Q.2d 1385 (2007). In its decision, the Supreme Court stated

that the teaching-suggestion-motivation (TSM) standard developed by the Federal Circuit was no longer the sole test for determining obviousness. Nevertheless, the Court indicated that the TSM test provides helpful insights as to the obviousness of the invention.

Furthermore, according to M.P.E.P. §2142:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

Applicants submit that the Office Action has not clearly articulated the reasons why the claimed invention would have been obvious.

Moreover, while the U.S. Supreme Court held that the TSM standard was not the sole standard for finding obviousness, there is at least one element to the finding of a *prima facie* case of obviousness that is common to both the TSM standard and the standards that may otherwise fall within the purview of the *KSR* decision. Specifically, each and every element of the claimed invention must still be considered. As will be set forth below, there are elements of the claimed invention that are missing in their entirety from the cited prior art.

Claim 20 defines a device for the feeding of free-range poultry kept in a coop with at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, with the pipe having at least one aperture. The device comprises a bowl device configured to be suspended on the feed delivery pipe, with the bowl device including a feed bowl located beneath a downpipe and a cupola formed from grid bars in spoke fashion. The downpipe comprises an inner cylinder configured to depart from the aperture and an outer cylinder encompassing the inner cylinder, on which the bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a

raisable and lowerable manner on the inner cylinder. At least one lifting stop is provided for delimiting a lifting and lowering path of the bowl. The downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder and wherein the outer cylinder features at least one spring-elastic engagement cam.

Applicant submits that claim 20 is not obvious over the cited art of record. First, Applicant submits that it is not obvious to combine the Swartzendruber '811 patent with the Runion '766 patent as set forth in the Office Action. According to the Office Action, it is obvious to modify the Swartzendruber '811 patent to include a rotational stop in order to prevent relative rotation between the inner cylinder and outer cylinder. However, the Swartzendruber '811 patent requires relative movement between the outside of the drop tube main cylinder 36 and the element surrounding the drop tube main cylinder 36 (marked with upper 37 in Fig. 3). According to the Swartzendruber '811 patent, it is an object of the invention to provide a feeder which will change automatically from one configuration and operating mode to the other as the feeder is raised from and lowered to a poultry house floor. See lines 43-47 of column 1. If the outer cylinder and inner cylinder of the Swartzendruber '811 patent were locked in position, they would not be able to move relative to each other, thereby not allowing the feeder to move from one configuration and operating mode to the other as the feeder is raised and lowered to a poultry house floor. Accordingly, Applicant submits that it is not obvious to combine the references as set forth in the Office Action and, in fact, the Swartzendruber '811 patent teaches away from any such combination. Accordingly, claim 20 is in condition for allowance.

Moreover, the cited art of record does not include a downpipe having at least one rotational stop delimiting a rotational path of an outer cylinder in relation to an inner cylinder and an outer cylinder that features at least one spring-elastic engagement cam, along with the remaining features of claim 20. According to the Office Action, the Swartzendruber '811 patent does not include these features. However, the Office Action has combined the Swartzendruber '811 patent with the Runion '766 patent by stating that the Runion '766 patent includes both at least one rotational stop and at least one spring-elastic engagement cam. It appears that the Office Action is stating that the same single element in the Runion '766 patent

comprises both the at least one rotational stop and the at least one spring-elastic engagement cam. However, Applicant submits that the Runion '766 patent does not include both of these features as the Runion '766 patent does not disclose two separate elements and Applicant submits that one element in a reference cannot be used to reject two separate elements as claimed. Accordingly, claim 20 is in condition for allowance.

Claim 23 defines a device for the feeding of free-range poultry kept in a coop with at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, the pipe having at least one aperture. The device comprises a bowl device configured to be suspended on the feed delivery pipe with the bowl device including a feed bowl located beneath a downpipe. The bowl device further includes a cupola formed from grid bars in spoke fashion. The downpipe comprises an inner cylinder configured to depart from the aperture and an outer cylinder encompassing the inner cylinder, on which the bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the inner cylinder. At least one lifting stop is provided for delimiting a lifting and lowering path of the bowl. The downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. The outer surface of an upper cylinder section of the outer cylinder includes a threaded spindle. Free ends of the grid bars of the bowl cupola are connected to a screw ring, which is screwed onto an area of the outer cylinder having the threaded spindle.

Applicant submits that claim 23 is not obvious over the cited art of record. First, as discussed above in regard to claim 20, Applicant submits that it is not obvious to combine the Swartzendruber '811 patent with the Runion '766 patent as set forth in the Office Action and that the Swartzendruber '811 patent actually teaches away from any such combination. Furthermore, Applicant submits that any combination of the Swartzendruber '811 patent and the Runion '766 patent would not include an outer cylinder, an inner cylinder, and a screw ring. Applicant submits that a combination of the references as set forth in the Office Action would, at most, only include two of these elements. The combination would not include all

three of these elements. Accordingly, claim 23 is in condition for allowance.

Claims 24-26 depend from claim 23, since claim 23 defines unobvious patentable subject matter as discussed above, claims 24-26 define patentable subject matter. Furthermore, in regard to claim 24, Applicant submits that the prior art of record does not include an outer cylinder that features at least one spring-elastic engagement cam in an area defined by the threaded spindle. First, as discussed above in regard to claim 20, it appears that the Office Action has stated that the cited references include at least one rotational stop and at least one spring-elastic engagement cam, with one element of the cited references comprising these two separate elements as claimed. As outlined above, Applicant submits that such a rejection is improper. Second, Applicant submits that the cited art does not include any spring-elastic engagement cam in an area defined by a threaded spindle as claimed in claim 24. Moreover, in regard to claim 26, Applicant submits that the cited art of record does not include any cut-outs as claimed in claim 26. Accordingly, claims 24-26 are in condition for allowance.

Claim 34 defines a device for the feeding of free-range poultry kept in a coop with at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, the pipe having at least one aperture. The device comprises a bowl device configured to be suspended on the feed delivery pipe with the bowl device including a feed bowl located beneath a downpipe. The bowl device further includes a cupola formed from grid bars in spoke fashion. The downpipe comprises an inner cylinder configured to depart from the aperture and an outer cylinder encompassing the inner cylinder, on which the bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the inner cylinder. At least one lifting stop is provided for delimiting a lifting and lowering path of the bowl. The downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. The feed bowl includes a feed plate, which in an area of its plate edge includes connecting elements for connecting to the bowl cupola.

Applicant submits that claim 34 is not obvious over the cited art of record. First, as discussed above in regard to claim 20, Applicant submits that it is not obvious to combine the

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Swartzendruber '811 patent with the Runion '766 patent as set forth in the Office Action and that the Swartzendruber '811 patent actually teaches away from any such combination. Accordingly, claim 34 is in condition for allowance.

Claims 35-37 depend from claim 34, since claim 34 defines unobvious patentable subject matter as discussed above, claims 35-37 define patentable subject matter. Accordingly, claims 35-37 are in condition for allowance.

Claim 40 defines a device for the feeding of free-range poultry kept in a coop with at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, the pipe having at least one aperture. The device comprises a bowl device configured to be suspended on the feed delivery pipe, with the bowl device comprising a feed bowl, a cupola, and a downpipe. The feed bowl is located beneath the downpipe. The cupola is formed from grid bars in a spoke fashion. The downpipe comprises an inner cylinder configured to depart from the aperture and an outer cylinder encompassing the inner cylinder. The feed bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the inner cylinder. The bowl device includes at least one lifting stop for delimiting a lifting and lowering path of the bowl. The downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. The outer cylinder features at least one spring-elastic engagement cam.

Applicant submits that claim 40 is not obvious over the cited art of record. First, as discussed above in regard to claim 20, Applicant submits that it is not obvious to combine the Swartzendruber '811 patent with the Runion '766 patent as set forth in the Office Action and that the Swartzendruber '811 patent actually teaches away from any such combination. Second, Applicant submits that the prior art of record does not include an outer cylinder that features at least one spring-elastic engagement cam. As discussed above in regard to claim 20, it appears that the Office Action has stated that the cited references include at least one rotational stop and at least one spring-elastic engagement cam, with one element of the cited references comprising these two separate elements as claimed. As outlined above, Applicant

submits that such a rejection is improper. Second, Applicant submits that the cited art does not include any spring-elastic engagement cam as claimed in claim 40. Accordingly, claim 40 is in condition for allowance.

Claim 43 defines a device for the feeding of free-range poultry kept in a coop with at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, the pipe having at least one aperture. The device comprises a bowl device configured to be suspended on the feed delivery pipe, with the bowl device comprising a feed bowl, a cupola, and a downpipe. The feed bowl is located beneath the downpipe. The cupola is formed from grid bars in a spoke fashion. The downpipe comprises an inner cylinder configured to depart from the aperture and an outer cylinder encompassing the inner cylinder. The feed bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the inner cylinder. The bowl device includes at least one lifting stop for delimiting a lifting and lowering path of the bowl. The downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. The outer surface of an upper cylinder section of the outer cylinder includes a threaded spindle. Free ends of the grid bars of the bowl cupola are connected to a screw ring, which is screwed onto an area of the outer cylinder having the threaded spindle.

Applicant submits that claim 43 is not obvious over the cited art of record. First, as discussed above in regard to claim 20, Applicant submits that it is not obvious to combine the Swartzendruber '811 patent with the Runion '766 patent as set forth in the Office Action and that the Swartzendruber '811 patent actually teaches away from any such combination. Furthermore, Applicant submits that any combination of the Swartzendruber '811 patent and the Runion '766 patent would not include an outer cylinder, an inner cylinder, and a screw ring. Applicant submits that a combination of the references as set forth in the Office Action would, at most, only include two of these elements. The combination would not include all three of these elements. Accordingly, claim 43 is in condition for allowance.

Claims 44-46 depend from claim 43, since claim 43 defines unobvious patentable

subject matter as discussed above, claims 44-46 define patentable subject matter. Furthermore, in regard to claim 44, Applicant submits that the prior art of record does not include an outer cylinder that features at least one spring-elastic engagement cam in an area defined by the threaded spindle. First, as discussed above in regard to claim 20, it appears that the Office Action has stated that the cited references include at least one rotational stop and at least one spring-elastic engagement cam, with one element of the cited references comprising these two separate elements as claimed. As outlined above, Applicant submits that such a rejection is improper. Second, Applicant submits that the cited art does not include any spring-elastic engagement cam in an area defined by a threaded spindle as claimed in claim 44. Moreover, in regard to claim 46, Applicant submits that the cited art of record does not include any cut-outs as claimed in claim 46. Accordingly, claims 44-46 are in condition for allowance.

Claim 54 defines a device for the feeding of free-range poultry kept in a coop with at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, the pipe having at least one aperture. The device comprises a bowl device configured to be suspended on the feed delivery pipe, with the bowl device comprising a feed bowl, a cupola, and a downpipe. The feed bowl is located beneath the downpipe. The cupola is formed from grid bars in a spoke fashion. The downpipe comprises an inner cylinder configured to depart from the aperture and an outer cylinder encompassing the inner cylinder. The feed bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the inner cylinder. The bowl device includes at least one lifting stop for delimiting a lifting and lowering path of the bowl. The downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. The feed bowl includes a feed plate. The feed plate includes a plate edge having connecting elements for connecting the feed plate to the bowl cupola.

Applicant submits that claim 54 is not obvious over the cited art of record. As discussed above in regard to claim 20, Applicant submits that it is not obvious to combine the Swartzendruber '811 patent with the Runion '766 patent as set forth in the Office Action and

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that the Swartzendruber '811 patent actually teaches away from any such combination.

Accordingly, claim 54 is in condition for allowance.

Claims 55-57 depend from claim 54, since claim 54 defines unobvious patentable subject matter as discussed above, claims 55-57 define patentable subject matter. Accordingly, claims 55-57 are in condition for allowance.

Claim 60 defines a device for the feeding of free-range poultry kept in a coop comprising at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered with the pipe having at least one branch aperture and a bowl device suspended on the feed delivery pipe and in connection with one of the at least one branch aperture, with the bowl device comprising a feed bowl, a cupola, and a downpipe. The feed bowl is located beneath the downpipe. The cupola is formed from grid bars in a spoke fashion. The downpipe comprises an inner cylinder departing from the aperture and an outer cylinder encompassing the inner cylinder. The feed bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the inner cylinder. The bowl device includes at least one lifting stop for delimiting a lifting and lowering path of the bowl. The downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. The outer cylinder features at least one spring-elastic engagement cam.

Applicant submits that claim 60 is not obvious over the cited art of record. First, as discussed above in regard to claim 20, Applicant submits that it is not obvious to combine the Swartzendruber '811 patent with the Runion '766 patent as set forth in the Office Action and that the Swartzendruber '811 patent actually teaches away from any such combination. Second, Applicant submits that the prior art of record does not include an outer cylinder that features at least one spring-elastic engagement cam in an area defined by the threaded spindle. As discussed above in regard to claim 20, it appears that the Office Action has stated that the cited references include at least one rotational stop and at least one spring-elastic engagement cam, with one element of the cited references comprising these two separate elements as claimed. As outlined above, Applicant submits that such a rejection is improper. Second,

Applicant submits that the cited art does not include any spring-elastic engagement cam as claimed in claim 60. Accordingly, claim 60 is in condition for allowance.

Claim 63 defines a device for the feeding of free-range poultry kept in a coop comprising at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered with the pipe having at least one branch aperture and a bowl device suspended on the feed delivery pipe and in connection with one of the at least one branch aperture, with the bowl device comprising a feed bowl, a cupola, and a downpipe. The feed bowl is located beneath the downpipe. The cupola is formed from grid bars in a spoke fashion. The downpipe comprises an inner cylinder departing from the aperture and an outer cylinder encompassing the inner cylinder. The feed bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the inner cylinder. The bowl device includes at least one lifting stop for delimiting a lifting and lowering path of the bowl. The downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. The outer surface of an upper cylinder section of the outer cylinder includes a threaded spindle. Free ends of the grid bars of the bowl cupola are connected to a screw ring, which is screwed onto an area of the outer cylinder having the threaded spindle.

Applicant submits that claim 63 is not obvious over the cited art of record. First, as discussed above in regard to claim 20, Applicant submits that it is not obvious to combine the Swartzendruber '811 patent with the Runion '766 patent as set forth in the Office Action and that the Swartzendruber '811 patent actually teaches away from any such combination. Second, Applicant submits that any combination of the Swartzendruber '811 patent and the Runion '766 patent would not include an outer cylinder, an inner cylinder, and a screw ring. Applicant submits that a combination of the references as set forth in the Office Action would, at most, only include two of these elements. The combination would not include all three of these elements. Accordingly, claim 63 is in condition for allowance.

Claims 64-66 depend from claim 63, since claim 63 defines unobvious patentable subject matter as discussed above, claims 64-66 define patentable subject matter. Furthermore,

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in regard to claim 64, Applicant submits that the prior art of record does not include an outer cylinder that features at least one spring-elastic engagement cam in an area defined by the threaded spindle. First, as discussed above in regard to claim 20, it appears that the Office Action has stated that the cited references include at least one rotational stop and at least one spring-elastic engagement cam, with one element of the cited references comprising these two separate elements as claimed. As outlined above, Applicant submits that such a rejection is improper. Second, Applicant submits that the cited art does not include any spring-elastic engagement cam in an area defined by a threaded spindle as claimed in claim 64. Moreover, in regard to claim 66, Applicant submits that the cited art of record does not include any cut-outs as claimed in claim 66. Accordingly, claims 64-66 are in condition for allowance.

Claim 74 defines a device for the feeding of free-range poultry kept in a coop comprising at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered with the pipe having at least one branch aperture and a bowl device suspended on the feed delivery pipe and in connection with one of the at least one branch aperture, with the bowl device comprising a feed bowl, a cupola, and a downpipe. The feed bowl is located beneath the downpipe. The cupola is formed from grid bars in a spoke fashion. The downpipe comprises an inner cylinder departing from the aperture and an outer cylinder encompassing the inner cylinder. The feed bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the inner cylinder. The bowl device includes at least one lifting stop for delimiting a lifting and lowering path of the bowl. The downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. The feed bowl includes a feed plate. The feed plate includes a plate edge having connecting elements for connecting the feed plate to the bowl cupola.

Applicant submits that claim 74 is not obvious over the cited art of record. As discussed above in regard to claim 20, Applicant submits that it is not obvious to combine the Swartzendruber '811 patent with the Runion '766 patent as set forth in the Office Action and that the Swartzendruber '811 patent actually teaches away from any such combination.

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Accordingly, claim 74 is in condition for allowance.

Claims 75-77 depend from claim 74, since claim 74 defines unobvious patentable subject matter as discussed above, claims 75-77 define patentable subject matter. Accordingly, claims 75-77 are in condition for allowance.


Claims 36, 37, 56, 57, 76, and 77 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Swartzendruber '811 patent in view of the Runion '766 patent and U.S. Patent No. 5,097,797 to Van Zee et al. Claims 36, 37, 56, 57, 76 and 77 depend from claims 34, 54 or 74, and since claims 34, 54 and 74 define unobvious patentable subject matter as discussed above, claims 36, 37, 56, 57, 76 and 77 define patentable subject matter. Accordingly, claims 36, 37, 56, 57, 76 and 77 are in condition for allowance.

New claims 80-85 depend from claims 20, 34, 40, 54, 60 and 74, respectfully. These claims state that free ends of the grid bars of the cupola are connected to a screw ring that surrounds the outer cylinder. Applicant submits that the cited art of record does not include this element and all of the elements of the base claims. Accordingly, claims 80-85 are in condition for allowance.

All pending claims 20-85 are believed to be in condition for allowance, and a Notice of Allowability is earnestly solicited.

Respectfully submitted,

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